SINGLE BENCH (8) 5

CF/1002

IN THE HIGH COURT OF JUDICATURE AT BILASPUR(C.G.)

WRIT PETITION (C) NO. 131 OF 2006

PETITIONER:

LAFARGE INDIA PRIVATE LIMITED, Registered Office at Bakhtawar, 14th Floor, 229, Nariman Point, Mumbai - 400001 and a Cement plant at Village Arasmeta , P.O. Gopal Nagar, District Janjgir Champa (C.G.)

P.R. No. 2363/06 Rakesh Dubey
Presented on 13/12/06
dated

VERSUS

RESPONDENTS :

1. STATE OF CHHTTISGARH, Through Chief Electrical Inspector, Near Chhattisgarh College, Byron Bazar, Raipur (C.G.)
2. BOARD OF REVENUE CHHATTISGARH, Bilaspur, District - Bilaspur (C.G.) Through its Chairmen.
3. COLLECTOR, Janjgir-Champa (C.G.)
4. ADDITIONAL TAHSILDAR, Janjgir, District Janjgir-Champa (C.G.)
5. NAIB TAHSILDAR, Janjgir, District Janjgir-Champa (C.G.)

RECEIVED-COPY
13/12/06
CLERK to A. G. BILASPUR

WRIT PETITION UNDER ARTICLES 226 OF THE CONSTITUTION OF INDIA FOR THE ISSUANCE OF WRITS IN THE NATURE OF MANDAMUS, CERTIORARI, PROHIBITION ETC OR FOR ORDER (S) OR FOR DIRECTION (S)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. No. 131/07 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	31.1.2007 Shri Manindra Shrivastava, Sr. Advocate with Shri Ashish Shrivastava, Advocate for the petitioner. Shri Sanjay. S. Agarwal, Government Advocate for the State. Heard. This petition is directed against the order of Annexure P-1 dated 22.11.2006 passed by respondent No.2-Board of Revenue, Chhattisgarh, Bilaspur, whereby the appeal preferred by the petitioner under Section 44 (1) (e) of the C.G. Land Revenue Code, 1959 (for brevity 'the Code') against the order of Annexure P-35 dated 26.9.2006 passed by the Collector, Janjgir-Champa in Revenue Case No.4/A-74/2005-06 has been rejected. Briefly stated facts of the case are that the petitioners filed a writ petition bearing W.P. No.6384/05 impugning the demand notice dated 18.10.2005 issued by the Additional Tehsildar, Janjgir-Champa towards recovery of electricity duty due to the State Government from the petitioners under the C.G. Electricity Duty Act, 1949. This petition was dismissed by this Court vide order of Annexure P-32 dated 19.12.2005 at the stage of admission itself, reserving liberty to the petitioners to work out their legal remedies, as provided under the Code. The grievance of the	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	petitioner in this petition is that in pursuance of order dated 19.12.2005 the petitioner submitted his objection against issuance of Revenue Recovery Receipt (for brevity 'RRC') before the Collector, Janjgir-Champa, upon which an application was filed by the Executive Engineer, Electrical Safety & Divisional Electrical Inspector, Bilaspur Division, Bilaspur regarding maintainability of the objection of the petitioner. The Collector without deciding the objection of the petitioner against issuance of RRC, summarily observed that since RRC has been issued by the Chief Electrical Inspector, Chhattisgarh, Raipur and the same has been forwarded for recovery to his office, as such, the Chief Electrical Inspector Chhattisgarh, Raipur is the competent authority to hear and decide the objection of the petitioner and accordingly, the petitioner was directed to put up his objection against the issuance of RRC before the Chief Electrical Inspector. It was further ordered that copy of objection preferred by the objector be also forwarded to the Chief Electrical Inspector, Chhattisgarh, Raipur for adjudication and necessary action. With these observations, the matter was disposed of and the stay order granted in favour of the petitioner on 20.1.2006 was also set aside.	

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Learned Senior Advocate for the petitioner submits that this Court while dismissing the petitioners' earlier petition had categorically observed that if the petitioners had any objection to the impugned notice of demand, then they should have filed their objection before the 3rd respondent i.e. Additional Tehsildar, and should have requested him to refer their objections to the authority issuing certificate under Section 145 (1) of the Code for their decision and sought for stay of recovery proceedings till then. From the above observations it is clear that the Collector was duty bound to decide the objection preferred by the petitioners and petitioners could not have been referred to the Chief Electrical Inspector, Chhattisgarh, Raipur for that purpose, as the authority issuing certificate under Section 145(1) of the Code is admittedly the Collector/Tehsildar.

On the other hand, learned Government Advocate for the State submits that the statement of account was sent for recovery to the Collector by respondent No.1, as the amount to be recovered was recoverable as arrears of land revenue, as per Electricity Act and the role of the Collector/Tehsildar was to effect the recovery. He further submits that the basis on which recovery has been ordered and statement of account has been sent to the Collector

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —५—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

can be objected to before the authority issuing the certificate and therefore, there is no illegality or infirmity in the impugned order. He very fairly submits that he has no objection if the recovery proceeding is kept in abeyance till the matter is adjudicated by the Chief Electrical Engineer, Chhattisgarh, Raipur.

I have heard learned counsel for the parties and perused the impugned orders.

It is evident from the order of this Court that earlier petition of the petitioner was dismissed with liberty to the petitioners to workout their legal remedies, as provided under the Code and in pursuance of same and as per observation in Para-4 of the above order, the petitioner approached the Collector with his objection and thereafter the Collector granted stay against the recovery proceedings. However, subsequently after hearing the parties the objection of the petitioner was disposed of with an observation that nature of objection raised by the petitioner may be decided by the Chief Electrical Inspector, Chhattisgarh, Raipur, as such, the petitioner was directed to put up his objection against issuance of RRC before the Chief Electrical Inspector, Chhattisgarh, Raipur and simultaneously, the objection preferred by the petitioner was also forwarded to the Chief Electrical

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश ~5~	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Inspector, Chhattisgarh, Raipur for adjudication and necessary action.

In view of the above, I am of the considered opinion that there is no illegality or infirmity in the order impugned disposing of the objection of petitioner and referring matter to the Chief Electrical Inspector, Chhattisgarh, for adjudication, which calls for interference by this Court.

In the result, this petition is disposed of with a direction to the Chief Electrical Inspector, Chhattisgarh, Raipur to decide the objection of petitioner expeditiously after affording opportunity of hearing to the parties and till then the recovery proceedings against the demand notice/RRC dated 18.10.2005 shall be kept in abeyance.

Consequently, M.W.P. No.254/07 & I.A. No.709/07 also stand disposed of.

Sd/-
Dhirendra Mishra
Judge

Roshan/-

P.T.O.